

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA	§	CONSOLIDATED
	§	CASE NO. 7:08-CV-061
v.	§	(Lead Case)
	§	
26.774 ACRES OF LAND, MORE OR LESS,	§	
SITUATED IN STARR COUNTY, TX; <i>et al.</i>	§	

STATUS REPORT

The United States of America files this Status Report in response to the Court's July 22, 2021 Order.¹

BACKGROUND

1. This case involves the acquisition of a fee take (Tract RGV-RGC-1045) and multiple easement takes from seven distinct larger parcels in this area, as summarized below:

Tracts²	Interest acquired
RGV-RGC-1045	Fee take
RGV-RGC-1045E-1, E-2; RGV-RGC-1098E-1, E-2; RGV-RGC-1099E-1, E-2; RGV-RGC-1100E-1, E-2; RGV-RGC-1101E-1, E-2; RGV-RGC-1102E-1, E-2	E-1 takes: Perpetual road easements E-2 takes: Temporary road easements

2. On August 21, 2020, the United States filed its most recent status report in response to the Court's June 29, 2020 Order.³ Therein, the United States provided the Court with an update on the unresolved tracts in this case: (a) Tract RGV-RGC-1045 and (b) remaining Road Easements ("E-1" and "E-2" takings) in this case.⁴

¹ Dkt. 130.

² Tracts RGV-RGC-1097 E-1, E-2 are not included here, as those tracts were resolved with landowner Randal Canales. (Dkt. 81 at 4-6.) Note that the "E-1" takings were intended as a 40 foot perpetual road easement, and the "E-2" takings were intended as a 20 foot temporary road easement, or 10 feet of temporary easement on each of the road.

³ Dkt. 116 at 2; Dkt. 117.

⁴ Dkt. 117 at 3-4 (Status Update).

a. ***Tract RGV-RGC-1045.*** The United States reported that issue of just compensation remained unresolved as to only Cindy Garcia, Administrator of the Estate of Marco A. Garcia (“Ms. Garcia”).⁵ Ms. Garcia, through counsel, confirmed she was unopposed to having the issue of just compensation decided by the Court on the briefings due to the COVID-19 pandemic.⁶ As such, the United States reported that it would file its just compensation brief before August 31, 2020 and rest on its brief as it did not appear that Ms. Garcia intended to submit a just compensation briefing.⁷ The United States further reported that its estimated just compensation valuation for Tract RGV-RGC-1045 had increased and would communicate this updated valuation to all interest owners of Tract RGV-RGC-1045 and deposit additional funds into the Court’s Registry.⁸

b. ***Road Easement interests.*** As to the revestment of the remaining “E-1” and “E-2” road easement takings, the United States reported that it had the signatures of the City of Roma, Texas and all interested parties, with the exception of Ms. Garcia.⁹ Ms. Garcia, through counsel, confirmed that she was not comfortable with signing any documents with the United States, nevertheless, Ms. Garcia was unopposed to revestment.¹⁰ Accordingly, the United States indicated that it would file its joint stipulation for partial revestment and request for final judgment by the Court’s August 21, 2020 deadline, and separately file a certificate of conference that reflected Ms. Garcia’s lack of opposition.¹¹

⁵ *Id.* at 3, ¶ 4(a).

⁶ *Id.* ¶ 4(b).

⁷ *Id.*

⁸ *Id.* ¶ 4(c).

⁹ *Id.* at 4, ¶ 5.

¹⁰ *Id.*

¹¹ Dkt. 117 at 4, ¶ 5.

3. On August 21, 2020, the United States filed the parties’ “Stipulation for Revestment and Request for Final Judgment” as to the “E-1” and “E-2” road easement takings in this case.¹² As indicated in its Status Report, the United States filed a “Certificate of Conference”¹³, indicating that counsel for the United States and Ms. Garcia had conferred on August 18, 2020 regarding the Stipulation for Revestment and Request for Final Judgment, and Final Judgment, and that Ms. Garcia was unopposed to revestment of the “E-1” and “E-2” road easement takings.¹⁴

4. In light of the United States’ Status Report and filing of the Stipulation for Revestment and Request for Final Judgment, with a certificate of conference reflecting Ms. Garcia’s lack of opposition, the Court entered an Order on August 24, 2020, cancelling the August 31, 2020 just compensation hearing and status conference.¹⁵ The Court further ordered the parties to file briefings on the issue of just compensation as to Tract RGV-RGC-1045 by August 31, 2020.¹⁶

5. Only the United States filed its Brief on Just Compensation as to Tract RGV-RGC-1045 on August 31, 2020.¹⁷ “In light of the fact that Ms. Garcia [did] not file[] a just compensation brief, the Court [found] Ms. Garcia [did not meet] her burden of establishing the value of Tract RGV-RGC-1045.”¹⁸ Thus, the Court entered an Order on September 10, 2020, agreeing with the United States’ estimate of \$10,488.00 as just compensation for the taking of Tract RGV-RGC-1045.¹⁹ The Court ordered the parties to appear for a status conference on November 10, 2020 at

¹² Dkt. 118.

¹³ Dkt. 119.

¹⁴ *Id.* at 1.

¹⁵ Dkt. 120 at 3.

¹⁶ *Id.*

¹⁷ Dkt. 122. Prior to the filing of its brief on just compensation, the United States deposited the additional just compensation into the Court’s Registry to reflect the estimated fair market value of the taking of Tract RGV-RGC-1045. *See* Dkt. 121 at 1 (Clerk’s Receipt).

¹⁸ Dkt. 123 at 2.

¹⁹ *Id.*

9:00 a.m., and to file a status report by October 30, 2020, or alternatively file dismissal documents by said October 30, 2020 deadline.²⁰ The Court indicated that “[u]pon receipt of the dismissal documentation pertaining to the United States’ fee simple taking of Tract RGV-RGC-1045, the Court [would] also consider the previously filed joint stipulation for partial revestment and final judgment, which addresses revestment of the road easements involved in this case.”²¹

6. On October 29, 2020, the United States filed the parties’ “Joint Stipulation and Motion for Entry of Order Establishing Just Compensation for Tract RGV-RGC-1045, Granting Possession, and Disbursing Funds on Deposit in the Court’s Registry[.]”²² The United States also filed a “Certificate of Conference”²³, indicating that counsel for the United States and Ms. Garcia had conferred on October 28, 2020 regarding the Joint Stipulation and Motion for Entry of Order Establishing Just Compensation for Tract RGV-RGC-1045, Granting Possession, and Disbursing Funds on Deposit in the Court’s Registry, and that Ms. Garcia was unopposed to the proposed documents in order to effectuate the disbursement of funds as to RGV-RGC-1045.²⁴

7. The Court entered an Order on November 6, 2020, granting the parties’ “Joint Stipulation and Motion for Entry of Order Establishing Just Compensation for Tract RGV-RGC-1045, Granting Possession, and Disbursing Funds on Deposit in the Court’s Registry[.]” closing the case as to Tract RGV-RGC-1045, and ordering the United States to file an amended Schedule GG reflecting the remaining tracts at issue and interested parties in the case.²⁵ The Court further cancelled the parties’ November 10, 2020 status conference regarding Tract RGV-RGC-1045.²⁶

²⁰ *Id.*

²¹ *Id.* at 3.

²² Dkt. 124.

²³ Dkt. 125.

²⁴ *Id.* at 1.

²⁵ Dkt. 126 at 1, 6.

²⁶ Dkt. 127 at 1.

8. The United States filed its Amended Schedule “GG” on November 10, 2020, reflecting the “E-1” and “E-2” tracts remaining at issue in this case and parties that are the subject of the Stipulation for Revestment and Request for Final Judgment.²⁷

9. On July 22, 2021, the Court ordered the parties to appear for a status conference on **Tuesday, August 17, 2021 at 9 a.m.**²⁸ The Court further ordered the parties to file a status report on August 6, 2021.²⁹

STATUS UPDATE

A. Case is Closed as to Tract RGV-RGC-1045.

10. On November 6, 2020, the Court entered an Order granting the parties “Joint Stipulation and Motion for Entry of Order Establishing Just Compensation for Tract RGV-RGC-1045, Granting Possession, and Disbursing Funds on Deposit in the Court’s Registry[.]”³⁰ Accordingly, the Court resolved and closed all issues as to Tract RGV-RGC-1045, only, on November 6, 2020.³¹

B. Case Remains Open as to Revestment of “E-1” and “E-2” Road Easements.

11. At this time, this case remains open only as to the “E-1” and “E-2” road easement takings. The “Stipulation for Revestment and Request for Final Judgment”³² remains pending before the Court. Per the Court’s Order, the United States filed an amended Schedule GG reflecting the remaining “E-1” and “E-2” road easements and interested parties in the case on November 10, 2020.³³ Upon consideration of the Stipulation for Revestment and Request for Final Judgment,

²⁷ Dkt. 128-1 (Amended Schedule “GG”); Dkt. 118.

²⁸ Dkt. 130 at 1.

²⁹ *Id.*

³⁰ Dkt. 126 at 1.

³¹ *Id.* at 6, ¶ 14; *see id.* at 6, n. 25 (The Court noted that “[t]he United States ha[d] filed a Stipulation for Revestment and Request for Final Judgment on the remaining tracts; it remains pending.”).

³² Dkt. 118.

³³ Dkt. 126 at 6; Dkt. 128-1 (Amended Schedule “GG”).

and entry of final judgment by the Court, all issues remaining in the above-styled case will be resolved.

Respectfully submitted,

JENNIFER B. LOWER
Acting United States Attorney
Southern District of Texas

By: *s/Baltazar Salazar*
BALTAZAR SALAZAR
Assistant United States Attorney
S.D. Tex. ID No. 3135288
Texas Bar No. 24106385
600 E. Harrison Street, Suite 201
Brownsville, Texas 78520
Tel: (956) 983-6057
Fax: (956) 548-2775
E-mail: Baltazar.Salazar@usdoj.gov
Attorney-in-Charge for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that, on August 5-6, 2020, I served a true and correct copy of the foregoing document via CM/ECF email notification or via regular mail to the interested parties in this case.

By: *s/Baltazar Salazar*
BALTAZAR SALAZAR
Assistant United States Attorney